

Executive Summary – Enforcement Matter – Case No. 48677
Nancy Overall dba Overall Grocery
RN102277308
Docket No. 2014-0681-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Overall Grocery, 20065 U.S. Highway 59, New Caney, Montgomery County

Type of Operation:

Convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 19, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$29,355

Amount Deferred for Expedited Settlement: \$5,871

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$734

Total Due to General Revenue: \$22,750

Payment Plan: 35 payments of \$650 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 27, 2014

Date(s) of NOE(s): April 25, 2014

Executive Summary – Enforcement Matter – Case No. 48677
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RN102277308
Docket No. 2014-0681-PST-E

Violation Information

1. Failed to monitor the underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
2. Failed to provide release detection for the pressurized piping associated with the UST system. Specifically, the Respondent had not conducted the super unleaded annual line leak detector test [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].
3. Failed to ensure the UST system is operated, maintained, and managed in a manner that will prevent releases of regulated substances and in accordance with accepted industry practices. Specifically, the meter on dispenser no. 5 was leaking fuel and the regular unleaded tank had approximately 2-3 inches of water due to a damaged vapor line [30 TEX. ADMIN. CODE § 334.48(a) and (b)].
4. Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, an automatic tank gauge ("ATG") test conducted on October 16, 2013 indicated a suspected release that was not reported [30 TEX. ADMIN. CODE § 334.72].
5. Failed to investigate a suspected release of a regulated substance within 30 days. Specifically, an ATG test conducted on October 16, 2013 indicated a suspected release that was not investigated [30 TEX. ADMIN. CODE § 334.74].
6. Failed to maintain all components of the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the nozzle boots on dispenser nos. 6 and 7 were torn and the super unleaded dry break was leaking vapors [30 TEX. ADMIN. CODE § 115.242(d)(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
7. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system. Specifically, operating instructions were not posted on dispenser no. 8 [30 TEX. ADMIN. CODE § 115.242(d)(9) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
8. Failed to maintain Stage II records at the Station and make them immediately available for inspection upon request by agency personnel. Specifically, Stage II training documentation for the Facility representative was not available [30 TEX. ADMIN. CODE § 115.246(4) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
9. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever comes first. Specifically, the 2013 and 2014 Stage II tests failed and the system was not retested after repairs were conducted on February 27, 2014 [30 TEX. ADMIN. CODE § 115.245 and TEX. HEALTH & SAFETY CODE § 382.085(b)].

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Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following:

- a. Tested the super unleaded line leak detector on February 27, 2014 with passing results;
- b. Implemented a method of release detection for the USTs on May 31, 2014;
- c. Repaired the meter on dispenser no. 5, replaced the damaged vapor line, and removed the water from the regular unleaded UST on May 14, 2014;
- d. Repaired the Stage II vapor recovery system on February 27, 2014;
- e. Posted operating instructions on dispenser no. 8 on February 27, 2014; and
- f. Began maintaining all Stage II records, including Stage II training records, on July 2, 2014.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Establish and implement a process for reporting suspected releases;
 - ii. Conduct an investigation of the suspected release and implement appropriate corrective measures; and
 - iii. Conduct the annual Stage II compliance testing.
- b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 48677
Nancy Overall dba Overall Grocery
RN102277308
Docket No. 2014-0681-PST-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Rebecca Boyett, Enforcement Division,
Enforcement Team 7, MC 128, (512) 239-2503; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Nancy Overall, Owner, Overall Grocery, 20065 U.S. Highway 59, New
Caney, Texas 77357

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned PCW	28-Apr-2014	Screening	5-May-2014	EPA Due	
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RESPONDENT/FACILITY INFORMATION

Respondent	Nancy Overall dba Overall Grocery		
Reg. Ent. Ref. No.	RN102277308		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	48677	No. of Violations	8
Docket No.	2014-0681-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Boyett
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$33,750

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History -10.0% Reduction **Subtotals 2, 3, & 7** -\$3,375

Notes Reduction for high performer classification.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** -\$1,249

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$592
Approx. Cost of Compliance \$8,908
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$29,126

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.8% **Adjustment** \$229

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 1 and 3.

Final Penalty Amount \$29,355

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$29,355

DEFERRAL 20.0% Reduction **Adjustment** -\$5,871

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY \$23,484

Screening Date 5-May-2014

Docket No. 2014-0681-PST-E

PCW

Respondent Nancy Overall dba Overall Grocery

Policy Revision 4 (April 2014)

Case ID No. 48677

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102277308

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction for high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 5-May-2014

Docket No. 2014-0681-PST-E

PCW

Respondent Nancy Overall dba Overall Grocery

Policy Revision 4 (April 2014)

Case ID No. 48677

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102277308

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.50 (b)(1)(A) and (b)(2) and Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description

Failed to monitor the underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, failed to provide release detection for the pressurized piping associated with the UST system. Specifically, the Respondent had not conducted the super unleaded annual line leak detector test.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

67 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the February 27, 2014 investigation date to the May 5, 2014 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$375

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes The Respondent achieved compliance on May 31, 2014 after the Notice of Enforcement ("NOE") dated April 25, 2014.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$148

Violation Final Penalty Total \$3,024

This violation Final Assessed Penalty (adjusted for limits) \$3,024

Economic Benefit Worksheet

Respondent Nancy Overall dba Overall Grocery

Case ID No. 48677

Reg. Ent. Reference No. RN102277308

Media Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	27-Feb-2014	31-May-2014	0.25	\$19	n/a	\$19

Notes for DELAYED costs

Estimated cost to implement a method of release detection for the USTs at the Facility. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$118	27-Feb-2013	27-Feb-2014	1.92	\$11	\$118	\$129
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct the annual line leak detector test for the super unleaded associated piping. The Date Required is one year prior to the investigation date and the Final Date is the date of compliance.

Approx. Cost of Compliance

\$1,618

TOTAL

\$148

Screening Date 5-May-2014

Docket No. 2014-0681-PST-E

PCW

Respondent Nancy Overall dba Overall Grocery

Policy Revision 4 (April 2014)

Case ID No. 48677

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102277308

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.48(a) and (b)

Violation Description

Failed to ensure the UST system is operated, maintained, and managed in a manner that will prevent releases of regulated substances and in accordance with accepted industry practices. Specifically, the meter on dispenser no. 5 was leaking fuel and the regular unleaded tank had approximately 2-3 inches of water due to a damaged vapor line.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

67 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the February 27, 2014 investigation date to the May 5, 2014 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$125

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent achieved compliance on May 14, 2014 after the NOE dated April 25, 2014.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$1,008

This violation Final Assessed Penalty (adjusted for limits) \$1,008

Economic Benefit Worksheet

Respondent Nancy Overall dba Overall Grocery
 Case ID No. 48677
 Reg. Ent. Reference No. RN102277308
 Media Petroleum Storage Tank
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$685	27-Feb-2014	14-May-2014	0.21	\$7	n/a	\$7

Notes for DELAYED costs

Actual cost as per receipts to repair the meter on dispenser no. 5, replace the damaged vapor line, and remove the water from the regular unleaded UST. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$685

TOTAL

\$7

Screening Date 5-May-2014

Docket No. 2014-0681-PST-E

PCW

Respondent Nancy Overall dba Overall Grocery

Policy Revision 4 (April 2014)

Case ID No. 48677

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102277308

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.72

Violation Description

Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, an automatic tank gauge ("ATG") test conducted on October 16, 2013 indicated a suspected release that was not reported.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Extraordinary

Before NOV NOV to EDPRP/Settlement Offer

Ordinary

N/A

x

(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105

Violation Final Penalty Total \$1,134

This violation Final Assessed Penalty (adjusted for limits) \$1,134

Economic Benefit Worksheet

Respondent Nancy Overall dba Overall Grocery

Case ID No. 48677

Reg. Ent. Reference No. RN102277308

Media Petroleum Storage Tank

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	27-Feb-2014	28-Jan-2015	0.92	\$5	n/a	\$5
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to establish and implement a process for reporting suspected releases. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Avoided Costs		Avoided Costs [1]					
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	16-Oct-2013	17-Oct-2013	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to report a suspected release. The Date Required is the date of the suspected release and the Final Date is the date the report was due.

Approx. Cost of Compliance

\$200

TOTAL

\$105

Screening Date 5-May-2014

Docket No. 2014-0681-PST-E

PCW

Respondent Nancy Overall dba Overall Grocery

Policy Revision 4 (April 2014)

Case ID No. 48677

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102277308

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 334.74

Violation Description

Failed to investigate a suspected release of a regulated substance within 30 days. Specifically, an ATG test conducted on October 16, 2013 indicated a suspected release that was not investigated.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 6

171 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$22,500

Six monthly events are recommended from the suspected release investigation due date to the May 5, 2014 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$22,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$301

Violation Final Penalty Total \$20,409

This violation Final Assessed Penalty (adjusted for limits) \$20,409

Economic Benefit Worksheet

Respondent Nancy Overall dba Overall Grocery
Case ID No. 48677
Reg. Ent. Reference No. RN102277308
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	15-Nov-2013	28-Jan-2015	1.20	\$301	n/a	\$301

Notes for DELAYED costs

Estimated cost to investigate a suspected release. The Date Required is the date the release investigation was due and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$301

Screening Date 5-May-2014

Docket No. 2014-0681-PST-E

PCW

Respondent Nancy Overall dba Overall Grocery

Policy Revision 4 (April 2014)

Case ID No. 48677

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102277308

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 5

Rule Cite(s)

30 Tex. Admin Code § 115.242(d)(3) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain all components of the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the nozzle boots on dispenser nos. 6 and 7 were torn and the super unleaded dry break was leaking vapors.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the February 27 2014 investigation date to the February 27, 2014 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$312

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent achieved compliance on February 27, 2014 prior to the NOE dated April 25, 2014.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$819

This violation Final Assessed Penalty (adjusted for limits) \$819

Economic Benefit Worksheet

Respondent Nancy Overall dba Overall Grocery

Case ID No. 48677

Reg. Ent. Reference No. RN102277308

Media Petroleum Storage Tank

Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$401	27-Feb-2014	27-Feb-2014	0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to repair the Stage II vapor recovery system as per receipt. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$401

TOTAL

\$0

Screening Date 5-May-2014

Docket No. 2014-0681-PST-E

PCW

Respondent Nancy Overall dba Overall Grocery

Policy Revision 4 (April 2014)

Case ID No. 48677

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102277308

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 115.242(d)(9) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system. Specifically, operating instructions were not posted on dispenser no. 8.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the February 27, 2014 investigation date to the February 27, 2014 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$312

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent achieved compliance on February 27, 2014 prior to the NOE dated April 25, 2014.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$819

This violation Final Assessed Penalty (adjusted for limits) \$819

Economic Benefit Worksheet

Respondent Nancy Overall dba Overall Grocery

Case ID No. 48677

Reg. Ent. Reference No. RN102277308

Media Petroleum Storage Tank

Violation No. 6

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment	\$4	27-Feb-2014	27-Feb-2014	0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to post operating instructions on dispenser no. 8 as per receipt. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$4

TOTAL

\$0

Screening Date 5-May-2014

Docket No. 2014-0681-PST-E

PCW

Respondent Nancy Overall dba Overall Grocery

Policy Revision 4 (April 2014)

Case ID No. 48677

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102277308

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 115.246(4) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain Stage II records at the Station and make them immediately available for inspection upon request by agency personnel. Specifically, Stage II training documentation for the Facility representative was not available.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$125

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent achieved compliance on July 2, 2014 after the NOE dated April 25, 2014.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$1,008

This violation Final Assessed Penalty (adjusted for limits) \$1,008

Economic Benefit Worksheet

Respondent Nancy Overall dba Overall Grocery

Case ID No. 48677

Reg. Ent. Reference No. RN102277308

Media Petroleum Storage Tank

Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	27-Feb-2014	2-Jul-2014	0.34	\$9	n/a	\$9
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain Stage II records at the Station. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$9

Screening Date 5-May-2014

Docket No. 2014-0681-PST-E

PCW

Respondent Nancy Overall dba Overall Grocery

Policy Revision 4 (April 2014)

Case ID No. 48677

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102277308

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 115.245 and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever comes first. Specifically, the 2013 and 2014 Stage II tests failed and the system was not retested after repairs were conducted on February 27, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$1,134

This violation Final Assessed Penalty (adjusted for limits) \$1,134

Economic Benefit Worksheet

Respondent Nancy Overall dba Overall Grocery
Case ID No. 48677
Reg. Ent. Reference No. RN102277308
Media Petroleum Storage Tank
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/Construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)	\$500	27-Feb-2014	18-Jan-2015	0.89	\$22	\$22

Notes for DELAYED costs

Estimated cost for testing the Stage II equipment. The Date Required is the date Stage II system repairs were made and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/Equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$22

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603971219, RN102277308, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN603971219, Overall, Nancy **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN102277308, Overall Grocery **Classification:** HIGH **Rating:** 0.00

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 01 - Gas Stations with convenience Stores and other Gas Stations

Location: 20065 US HIGHWAY 59 NEW CANEY, TX 77357-8289, MONTGOMERY COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 38958

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: May 07, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 05, 2009 to May 05, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Rebecca Boyett

Phone: (512) 239-2503

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) If **YES** for #2, who is the current owner/operator? OVERALL, NANCY OWNER OPERATOR since 10/13/2011
Stubbs Petroleum Co., Ltd. OWNER since 1/12/1987
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? OVERALL, FLOYD, OWNER OPERATOR, 7/1/1995 to 10/12/2011
- 5) If **YES**, when did the change(s) in owner or operator occur? 10/13/2011

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
NANCY OVERALL DBA OVERALL
GROCERY
RN102277308**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2014-0681-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Nancy Overall dba Overall Grocery ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 20065 United States Highway 59 in New Caney, Montgomery County, Texas (the "Station").
2. The Respondent's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 30, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twenty-Nine Thousand Three Hundred Fifty-Five Dollars (\$29,355) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Hundred Thirty-Four Dollars (\$734) of the administrative penalty and Five Thousand Eight Hundred Seventy-One Dollars (\$5,871) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Twenty-Two Thousand Seven Hundred Fifty Dollars (\$22,750) of the administrative penalty shall be payable in 35 monthly payments of Six Hundred Fifty Dollars (\$650) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
 - a. Tested the super unleaded line leak detector on February 27, 2014 with passing results;
 - b. Implemented a method of release detection for the USTs on May 31, 2014;
 - c. Repaired the meter on dispenser no. 5, replaced the damaged vapor line, and removed the water from the regular unleaded UST on May 14, 2014;
 - d. Repaired the Stage II vapor recovery system on February 27, 2014;
 - e. Posted operating instructions on dispenser no. 8 on February 27, 2014; and
 - f. Began maintaining all Stage II records, including Stage II training records, on July 2, 2014.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement

proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Station, the Respondent is alleged to have:

1. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on February 27, 2014.
2. Failed to provide release detection for the pressurized piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on February 27, 2014. Specifically, the Respondent had not conducted the super unleaded annual line leak detector test.
3. Failed to ensure the UST system is operated, maintained, and managed in a manner that will prevent releases of regulated substances and in accordance with accepted industry practices, in violation of 30 TEX. ADMIN. CODE § 334.48(a) and (b), as documented during an investigation conducted on February 27, 2014. Specifically, the meter on dispenser no. 5 was leaking fuel and the regular unleaded tank had approximately 2-3 inches of water due to a damaged vapor line.
4. Failed to report a suspected release to the TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72, as documented during an investigation conducted on February 27, 2014. Specifically, an automatic tank gauge ("ATG") test conducted on October 16, 2013 indicated a suspected release that was not reported.
5. Failed to investigate a suspected release of a regulated substance within 30 days, in violation of 30 TEX. ADMIN. CODE § 334.74, as documented during an investigation conducted on February 27, 2014. Specifically, an ATG test conducted on October 16, 2013 indicated a suspected release that was not investigated.
6. Failed to maintain all components of the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system, in violation of 30 TEX. ADMIN CODE § 115.242(d)(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 27, 2014. Specifically, the nozzle boots on dispenser nos. 6 and 7 were torn and the super unleaded dry break was leaking vapors.

7. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.242(d)(9) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 27, 2014. Specifically, operating instructions were not posted on dispenser no. 8.
8. Failed to maintain Stage II records at the Station and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(4) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 27, 2014. Specifically, Stage II training documentation for the Facility representative was not available.
9. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever comes first, in violation of 30 TEX. ADMIN. CODE § 115.245 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 27, 2014. Specifically, the 2013 and 2014 Stage II tests failed and the system was not retested after repairs were conducted on February 27, 2014.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Nancy Overall dba Overall Grocery, Docket No. 2014-0681-PST-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:

- i. Establish and implement a process for reporting suspected releases, in accordance with 30 TEX. ADMIN. CODE § 334.72;
 - ii. Conduct an investigation of the suspected release and implement appropriate corrective measures, in accordance with 30 TEX. ADMIN. CODE § 334.74; and
 - iii. Conduct the annual Stage II compliance testing, in accordance with 30 TEX. ADMIN. CODE § 115.245.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes

aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pamela Marcia J
For the Executive Director

11/25/14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Nancy Overall
Signature

8-15-14
Date

Nancy Overall
Name (Printed or typed)
Authorized Representative of
Nancy Overall dba Overall Grocery

Owner
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.